

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

KIEWIT CONSTRUCTION COMPANY,

Plaintiff,

VS.

**CAPITAL ELECTRIC
CONSTRUCTION, COMPANY, INC.,**

Defendant.

CASE NO. 8:04CV148

ORDER

This matter is before the Court on the Plaintiff Kiewit Construction Company's ("Kiewit") Motion for Order Authorizing the filing of a combined brief, seeking to combine its reply brief in support of its motion for summary judgment with a brief in opposition to the Defendant Capital Electric Construction Company's ("Capital Electric") motion for summary judgment. (Filing No. 62). Capital Electric opposes the motion, primarily because it believes that Kiewit has no right to file a reply brief.

Kiewit may, but is not required to, file a reply brief under the Court's local rules. The District Court for the District of Nebraska promulgated new local rules that became effective on August 6, 2004. Pursuant to NECivR 7.1(c), a moving party may file a reply brief no later than five days after the non-moving party files an opposing brief. Thus, if Kiewit chooses to reply to Capital Electric's brief in opposition, it must do so, at the latest by Monday, May 2, 2005.¹ Thus, Capital will "have the last word" if it chooses to timely file a reply brief in support of its own motion for summary judgment. The Court's rules may be accessed through the Court's web site, www.ned.uscourts.gov.

¹ The Court continues to give litigants the benefit of the three-day mailing rule in Fed. R. Civ. P. 6(e).

Because I have every confidence that Kiewit can distinguish those arguments it wishes to advance in reply to Capital Electric's arguments made in opposition to Kiewit's motion from those arguments that Kiewit wishes to advance in opposition to Capital Electric's motion for summary judgment, the request to file a combined brief shall be denied.

IT IS ORDERED:

Plaintiff's Motion for Order Authorizing Plaintiff to Submit a Combined Brief

(Filing No. 62) is denied.

Dated this 28th day of April, 2005.

BY THE COURT:

s/Laurie Smith Camp
Laurie Smith Camp
United States District Judge